



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.7629 OF 2009
WITH
CIVIL APPLICATION NO.13515 OF 2024
IN
WRIT PETITION NO.7629 OF 2009**

Ranushri d/o Motilal Baviskar,
Age : 19 years, Occu- Education,
R/o Plot no.19, Lane no.5/1,
Samarthnagar (Pimprala), Jalgaon,
Dist. Jalgaon.

...PETITIONER

VERSUS

1. The State of Maharashtra.
Through the Ministry of
Tribal Development,
Mantralaya, Mumbai-32.
2. The Director,
Caste Scrutiny Committee,
Nandurbar, Dist. Nandurbar.
3. The Principal,
Government Polytechnic College,
Jalgaon at Jalgaon.
4. The Deputy Executive Engineer,
Irrigation Project Construction Division,
Shahapur, Tq. Shahapur,
District Thane.
5. The Secretary,
Irrigation Department,
Mantralaya, Mumbai.

...RESPONDENTS

**WITH
WRIT PETITION NO.7646 OF 2009**

Motilal s/o Baburao Baviskar,
Age : 46 years, Occu- Service,
R/o Plot No.19, Lane No.5/1,
Samarthnagar (Pimprala), Jalgaon,
Dist. Jalgaon.

...PETITIONER

VERSUS

1. The State of Maharashtra.
Through the Ministry of
Tribal Development,
Mantralaya, Mumbai-32.
2. The Director,
Caste Scrutiny Committee,
Nandurbar, Dist. Nandurbar.
3. Scheduled Tribe Boys'
Government Hostel, Jalgaon.
Through its Warden.

...RESPONDENTS

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Shri S.R. Barlinge, Advocate for the petitioners.
Ms. P.J. Bharad, AGP for the respondents/ State.
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**CORAM : MANGESH S. PATIL
&
PRAFULLA S. KHUBALKAR, JJ.**

**Reserved on : 15th January, 2025
Pronounced on : 18th February, 2025**

JUDGMENT (Per Prafulla S. Khubalkar, J):-

Heard.

2. By orders dated 28.07.2010, rule was issued in these petitions with interim relief.

3. The petitions are taken up for final hearing. We have heard the learned advocates for the respective parties and with their assistance, perused the petition paper books and the original records produced by the learned AGP.

4. The petitioners, who are father and daughter, have raised challenge to the orders passed by respondent No.2 Scrutiny Committee invalidating their claims for 'Tokre Koli', Scheduled Tribe. In Writ Petition No.7629/2009, the petitioner (Ranushri Motilal Baviskar) has challenged the order dated 30.09.2009 passed by the Scrutiny Committee whereas, in Writ Petition No.7646/2009, the petitioner (Motilal Baburao Baviskar) has challenged the order dated 18.06.2009. Since challenges raised are against the orders passed by the same Committee and same set of evidence is relied upon by both the sides, we are deciding those by this common judgment.

5. The Committee has observed that the petitioners have failed to establish their claims on the basis of documentary evidence and also failed to prove their affinity with 'Tokre Koli' tribe. Although the Committee referred to a number of documents submitted by the petitioners including the documents of pre-independence era, however, it concluded that those documents cannot be conclusively relied upon in view of residence of the petitioners' family being not from the scheduled area. As regards the validity certificates relied upon by the petitioners, the Committee has observed that since few other documents mentioning the caste/ tribe as 'Hindu Tokre Koli', 'Hindu Suryawanshi Koli' and 'Tokali Koli' were not considered while granting validities, the petitioners cannot take any benefit from the same. The Committee has generally observed about failure of affinity by mentioning that customs and traditions mentioned by the petitioners do not match with that of the tribe 'Tokre Koli'.

6. The learned advocate Shri Barlinge for the petitioners vehemently argued that the petitioners' claims ought to have been validated in view of the validity certificate dated

10.11.2005 granted in favour of Harshada Motilal Baviskar, who is the real sister of Ranushri and daughter of Motilal, who are the petitioners in the instant petitions. The petitioners have also relied upon the validity certificate of Devlal Baburao Baviskar, who is the uncle of Harshada and Ranushri and real brother of Motilal Baburao Baviskar. It is submitted that after following due procedure, on the basis of vigilance cell report and other documentary evidence, the claim of Harshada was validated and the certificate of validity dated 10.11.2005 (Exhibit K) was issued in her favour.

7. Advocate Ms. P.J. Bharad, the learned AGP, has opposed the petitions and submitted that the validity certificate of Harshada cannot be made the sole basis to conclusively decide the petitioners' claims since it appears that few documents mentioning different caste/ tribe were not considered while granting her validity. It is submitted that each case has to be decided independently and the petitioners cannot take advantage of validities of Harshada and Devlal.

8. During the course of hearing, the original records in the matters of Harshada and the petitioners are produced before

us. We have considered the rival contentions and perused the records.

9. It is to be noted that relationship of Harshada with Ranushri being real sister and with Motilal being daughter, is not in dispute. The record reveals that the validity was granted in favour of Harshada by following due procedure including vigilance cell enquiry and by passing a reasoned order.

10. The reasoning given by the Committee discarding the validity certificates of Harshada and Devlal by referring to other documents, is clearly perverse. Although it is submitted that the certificates of validity already granted needs to be revoked, however, as on today, the validity certificates are in force and the petitioners are entitled to derive its benefits.

11. In the light of the above circumstances and in view of the settled position of law as laid down in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and others, AIR 2023 SC 1657*** and ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur, [2010(6) Mh.L.J.401 : AIR 2010(6) Bom.R.21]***, the claims of the petitioners need to be validated and

they are entitled for grant of validity, which shall be co-terminus with the validity of Harshada. Hence, the following order:-

- (a) The Writ Petitions are partly allowed.
- (b) The impugned orders dated 30.09.2009 and 18.06.2009 are quashed and set aside.
- (c) Respondent No.2 Scrutiny Committee is directed to immediately issue validity certificates of 'Tokre Koli', Scheduled Tribe, in favour of the petitioners.
- (d) The validity certificates to be issued to the petitioners shall be subject to the outcome of the matters of validity holders, which the Committee has decided to reopen.
- (e) The petitioners shall not claim equities.
- (f) No order as to costs.

12. Rule is made absolute in the above terms.

13. The pending Civil Application does not survive and stands disposed of.

kps

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)